



#16

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

BROWN, Peter

Appl. No. 09/100,088

Filed: June 19, 1998

For: **Method and Computer Program
Product for Simulating Solution
Preparation in Biopharmaceutical
Batch Process Manufacturing**

Art Unit: 2123

Examiner: Hugh M. Jones

Atty. Docket: 1606.0020004

Petition to Withdraw Holding of Abandonment**RECEIVED**

Commissioner for Patents
Washington, DC 20231

JAN 06 2003

Technology Center 2100

Sir:

Applicants hereby petition to withdraw the holding of abandonment in the above-captioned application (Paper No. 15), issued on December 16, 2002. It is respectfully believed that the Notice of Abandonment was issued in error, for the following reasons.

A Final Office Action (Paper No. 11) was issued in the above-identified case on January 3, 2001. In response, Applicant timely filed a Notice of Appeal and Petition for a three-month extension of time on July 3, 2001 along with the requisite fees.

In place of an Appeal Brief, applicant elected to file a Request for Continued Examination, an Amendment and Reply. These documents, a Petition for a five-month extension of time, and the requisite fees were timely filed on February 4, 2002.

Copies of the documents filed on February 4, 2002, along with a copy of the return receipt postcard bearing the PTO date stamp of February 4, 2002, are attached hereto.

The Examiner indicated to a member of the undersigned firm that the Amendment and Reply filed February 4, 2002 is missing from the file, which resulted in the Notice of Abandonment. However, the Amendment and Reply were in fact timely filed as shown by the attached copies and stamped receipt.

Accordingly, it is respectfully submitted that a bona fide Request for Continued Examination and a proper response were timely filed, and that the Notice of Abandonment

01/02/2003 09:00:00 00000000 00000000 133.00 00

was issued in error. Reconsideration of the holding of abandonment and withdrawal of the holding of abandonment are therefore respectfully requested. The requisite fee of \$130.00 for consideration of this petition (37 C.F.R. § 1.17(h)) is provided in our accompanying PTO-2038 Credit Card Payment Form.

However, in the event that this petition is not granted and it is held that the Notice of Abandonment was properly issued, then Applicants respectfully petition under 37 C.F.R. § 1.137(b) to revive the above-captioned application, which was unintentionally abandoned. Applicants respectfully submit that the entire delay in providing any required reply from the due date for the reply until the filing of this grantable petition pursuant to this paragraph was unintentional. It is respectfully requested that the RCE filed on February 11, 2002, be considered as the requisite reply in accordance with 37 C.F.R. §§ 1.137(b)(2) and (c).

The U.S. Patent and Trademark Office is hereby authorized to charge any additional fees, including the fee for Petition to Revive under 37 C.F.R. § 1.137(b) if necessary, any additional extensions of time that may be necessary to prevent abandonment of this application which are also hereby petitioned under 37 C.F.R. § 1.136(a), to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Evan R. Smith
Attorney for Applicant
Registration No. 35,683

Date: 1-2-03

1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934
(202) 371-2600

**Sterne Kessler
Goldstein Fox**
ATTORNEYS AT LAW



Robert Greene Sterne
Edward J. Kessler
Jorge A. Goldstein
David K.S. Cornwell
Robert W. Esmond
Tracy-Gene G. Durkin
Michele A. Cimbala
Michael B. Ray
Robert E. Sokohl
Eric K. Steffe
Michael Q. Lee
Steven R. Ludwig
John M. Covert
Linda E. Alcorn
Robert C. Millonig
Lawrence B. Bugaisky
Donald J. Featherstone
Michael V. Messinger

Judith U. Kim
Timothy J. Shea, Jr.
Patrick E. Garrett
Jeffrey T. Helvey*
Heidi L. Kraus
Edward W. Yee
Albert L. Ferro*
Donald R. Banowitz
Peter A. Jackman
Molly A. McCall
Teresa U. Medler
Jeffrey S. Weaver
Kendrick P. Patterson
Vincent L. Capuano
Albert J. Fasulo II*
Eldora Ellison Floyd
Thomas C. Fiala
Brian J. Del Buono

Virgil Lee Beaston*
Kimberly N. Reddick
Theodore A. Wood
Elizabeth J. Haanes
Bruce E. Chalker
Joseph S. Ostroff
Frank R. Cottingham
Christine M. Uhler
Rae Lynn Prensaman
Jane Shershenovich*
Lawrence J. Carroll*
George S. Bardmesser
Daniel A. Klein*
Rodney G. Maze
Jason D. Eisenberg
Michael A. Specht
Andrea J. Kamage
Tracy L. Muller*

Jon E. Wright*
LuAnne M. Yuricek*
Registered Patent Agents*
Karen R. Markowicz
Nancy J. Leith
Ann E. Summerfield
Helene C. Carlson
Gaby L. Longworth
Matthew J. Dowd
Aaron L. Schwartz
Angelique G. Uy
Boris A. Matvenko
Mary B. Tung
Katrina Y. Pei
Bryan L. Skelton
Robert A. Schwartzman
John J. Figueroa

Timothy A. Doyle
Jennifer R. Mahalingappa
Teresa A. Colella
Jeffrey S. Lundgren
Victoria S. Rutherford
W. Brian Edge

Senior Counsel
Samuel L. Fox
Kenneth C. Bass III
Lisa A. Dunner

*Admitted only in Maryland
*Admitted only in Virginia
*Admitted only in Texas
*Practice Limited to
Federal Agencies

January 2, 2003

WRITER'S DIRECT NUMBER:
(202) 218-7810
INTERNET ADDRESS:
ESMITH@SKGF.COM

RECEIVED

JAN 06 2003

Art Unit 2123

Technology Center 2100

Aban

Commissioner for Patents
Washington, D.C. 20231

Re: U.S. Utility Patent Application
Appl. No. 09/100,088; Filed: June 19, 1998
For: **Method and Computer Program Product for Simulating Solution Preparation
in Biopharmaceutical Batch Process Manufacturing**
Inventors: Peter G. Brown
Our Ref: 1606.0020004/RES/ERS

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Fee Transmittal Form PTO/SB/17;
2. Petition to Withdraw Holding of Abandonment; and
3. One (1) Return Postcard; and
4. PTO-2038 Credit Card Payment Form for \$130.00 to cover:
\$130.00 for Petition to Withdraw Holding of Abandonment.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Evan R. Smith
Attorney for Applicant
Registration No. 35,683

EVS/tis
Enclosures
SKGF_DC1:88389.1